

§ 200.110

will occur ten calendar days after notice to the person requesting confidential treatment, subject to any stay entered pursuant to paragraph (e) (5) of this section.

(5) If within that ten calendar day period the General Counsel has been notified that the person requesting confidential treatment has commenced an action in a Federal court concerning the determination to make such information publicly available, the General Counsel will stay making the public disclosure of the information pending final judicial resolution of the matter. The General Counsel may vacate a stay under this section either on his or her own motion or at the request of a person seeking access to the information under the Freedom of Information Act. If the stay is vacated, the information will be released under the Freedom of Information Act ten calendar days after the person requesting confidential treatment is notified of this action by telephone, if possible, with a telegram or express mail letter sent to the person's last known address, unless the court orders otherwise.

(f) *Initial determination that confidential treatment is warranted.* If it is determined by the Commission's Freedom of Information Act Officer that confidential treatment is warranted, the person submitting the information and the person requesting access to the information under the Freedom of Information Act will be so informed by mail. The person requesting access, pursuant to the Freedom of Information Act, will also be informed of the right to appeal the determination to the General Counsel. Any such appeal must be taken in accordance with the provisions of the Freedom of Information Act and Commission rules thereunder. See 17 CFR 200.80(d)(6).

(g) *Effect of no prior request for confidentiality.* (1) If access is requested under the Freedom of Information Act to information which is submitted to the Commission on or after October 20, 1980 with respect to which no request for confidential treatment has been made pursuant to either paragraph (c)(1) or (c)(4) of this section, it will be presumed that the submitter of the information has waived any interest in asserting an exemption from disclosure

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under the Freedom of Information Act for reasons of personal privacy or business confidentiality, or for other reasons.

(2) Notwithstanding paragraph (g)(1) of this section, in appropriate circumstances, any person who would be affected by the public disclosure of information under the Freedom of Information Act may be contacted by Commission personnel to determine whether the person desires to make a request for confidential treatment. Any request for confidential treatment that is asserted in response to such inquiry shall be made in accordance with provisions of this section.

(h) *Extensions of time limits.* Any time limit under this section may be extended, in the discretion of the Commission, the Commission's General Counsel, or the Commission's Freedom of Information Act Officer, for good cause shown.

(i) *Electronic filings.* Confidential treatment requests shall be submitted in paper format only, whether or not the person making the request is an electronic filer.

[45 FR 62421, Sept. 19, 1980, as amended at 47 FR 20289, May 12, 1982; 58 FR 14659, Mar. 18, 1993]

Subpart E [Reserved]

Subpart F—Code of Behavior Governing Ex Parte Communications Between Persons Outside the Commission and Decisional Employees

AUTHORITY: 15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11; 5 U.S.C. 557.

§ 200.110 Purpose.

This code is adopted in conformity with section 4 of the Government in the Sunshine Act, Pub. L. 94-409, and is designed to insulate the administrative process from improper influence.

[42 FR 14690, Mar. 16, 1977]

§ 200.111 Prohibitions; application; definitions.

(a) *Prohibited communications.* In any agency proceeding which is subject to